

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

**ENERGY DIVISION**

**RESOLUTION E-4779**  
**July 14, 2016**

**R E S O L U T I O N**

**Resolution E-4779.** Southern California Edison (SCE) Company's request for disbursements from the San Onofre Nuclear Generating Station (SONGS) decommissioning trusts for decommissioning related forecast expenditures in 2016.

**PROPOSED OUTCOME:**

- SCE's request for Commission approval to withdraw up to \$228.8 million from its San Onofre Nuclear Generating Station (SONGS) decommissioning trust funds is approved.

**SAFETY CONSIDERATIONS:**

- The primary goal of the SONGS decommissioning plan is to ensure that the plant is decommissioned safely, spent fuel is managed properly, and the plant site is restored. This resolution will enable SCE to undertake these necessary safety activities by providing requested disbursement of funds.

**ESTIMATED COST:**

- Authorizes SCE to withdraw up to a total of \$228.8 million from the nuclear decommissioning trust funds into which ratepayers have already paid.

By SCE Advice Letter 3307-E filed on November 12, 2015.

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**SUMMARY**

This Resolution approves SCE's request for disbursement of up to \$228.8 million for its share of SONGS 2 and 3 decommissioning expenses forecast to be incurred in 2016. These SONGS 2 and 3 decommissioning expenses are subject to reasonableness review in a future formal proceeding.

Energy Division approved SCE AL 3307-E by staff disposition on January 14, 2016 finding that the approval sought by SCE in its advice letter was consistent with the procedure SCE utilized for prior year decommissioning expenses. The staff disposition stated that any disbursements through this advice letter process are subject to a reasonableness review in a formal proceeding at a later date.

On January 25, 2016, Ms. Donna Gilmore submitted a request for Commission review of Energy Division's disposition letter asserting that staff disposition letter is unlawful and erroneous.

This resolution is in response to Ms. Gilmore's request for Commission review of the Energy Division staff's disposition.

## **BACKGROUND**

**SONGS Units 2 and 3 have not operated since January 2012 and are permanently shut down.**

In January 2012, defects in the replacement steam generators for SONGS Units 2 and 3 resulted in cessation of operation of the plant. On June 7, 2013, SCE announced the permanent shutdown of both units, and its intention to begin decommissioning activities for SONGS. SCE retained EnergySolutions to prepare a detailed site-specific decommissioning report. This Decommissioning Cost Estimate (DCE) was submitted to the CPUC for review and approval in A.14-12-007. Decommissioning is expected to occur generally over a 20-year period and estimated to cost about \$4.4 billion.

**SONGS is jointly owned by SCE, SDG&E, and the City of Riverside.**

SCE has ownership of 75.7% of SONGS Units 2 and 3, SDG&E owns 20.0%, and the City of Riverside owns 1.8%. All three entities are responsible for the plant's decommissioning. Additionally, the City of Anaheim, a former owner of SONGS 2 and 3, also has a liability for decommissioning expenses of about 2.5%.<sup>1</sup> SCE

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<sup>1</sup> In December 2005, SCE and Anaheim entered into a Settlement Agreement relating to SONGS under which SCE acquired Anaheim's ownership interest. However, Anaheim retained certain liabilities, including responsibility for 2.4737% of SONGS 2 and 2.4625% of SONGS 3 decommissioning costs. Anaheim retains its nuclear decommissioning trust funds.

and SDG&E maintain separate nuclear decommissioning trust (NDT) funds required by the Nuclear Regulatory Commission (NRC) in the Code of Federal Regulations 10 CFR 50.75. The Trusts have been funded by utility ratepayers and the Cities of Riverside and Anaheim to cover the expected costs of decommissioning the two units.

**Trusts funds were established in 1988 to maintain sufficient funding to cover decommissioning costs for SONGS 2 and 3.**

In response to D.87-05-062, SCE and SDG&E established two separate trust funds for expected decommissioning costs for SONGS 2 and 3. A Qualified Trust was established as a vehicle to hold the decommissioning funds for contributions that qualify for an income tax deduction under Section 468A of the Internal Revenue Code, and the Nonqualified Trust was designed to hold the remaining funds. On November 25, 1987, the CPUC approved the SCE Trust Agreements by Resolution E-3057. The Trusts were initially funded in February 1988. Since then, the Nonqualified Trusts have been eliminated and the balances transferred to the Qualified Trusts. As of June 30, 2015, SCE trust fund balances are \$1,478 million for SONGS 2 and \$1,656 million for SONGS 3. SDG&E maintains separate trusts for its 20.0% ownership of SONGS. For SDG&E, the trust fund balances as of June 30, 2015 are \$463.4 million for SONGS 2 and \$527.7 million for SONGS 3.

SCE and SDG&E also maintain separate trust funds for the decommissioning of SONGS 1, which are not intended to be used for any decommissioning activities associated with SONGS 2 and 3. SCE also maintains separate decommissioning trusts related to its 16.5% ownership of the three Palo Verde units located in Arizona.

**SCE submitted a Tier 2 Advice Letter requesting a total disbursement of \$228.8 million from its SONGS 2 and 3 decommissioning trust funds.**

On November 12, 2015, SCE submitted Advice Letter (AL) 3307-E requesting authorization for disbursement of \$228.8 million from its SONGS Units 2 and 3 decommissioning trust fund. This amount is for its share of forecast 2016 expenditures for the decommissioning of SONGS 2 and 3.

Previously, SCE was authorized by Commission approval of Resolution E-4678 on July 23, 2015 to withdraw up to \$340 million for expenses incurred in 2013 and 2014, as requested in SCE AL 3193-E dated March 18, 2015. Additionally,

SCE was authorized to withdraw up to \$246.4 million for 2015 expenses including some adjustments to 2013 – 2014 expenses, as requested in SCE AL 3285-E dated October 5, 2015.

**SCE AL 3307-E was protested by Ms. Donna Gilmore.**

On December 2, 2015, Ms. Donna Gilmore submitted a protest to advice letter SCE 3307-E. In her protest, Ms. Gilmore objected to SCE's request for \$82.1 million for the Independent Spent Fuel Storage Installation (ISFSI) costs and \$13.9 million for the Cold and Dark decommissioning projects because these projects have not yet undergone reasonableness review and the DCE proceeding A.14-12-007, which includes these projects and costs, had not at the time been approved by the Commission.

**Energy Division approved SCE AL 3307-E by staff disposition on January 14, 2016.**

The Energy Division staff disposition letter concluded that the approval sought by SCE in its advice letter was consistent with the procedure SCE utilized for prior year decommissioning expenses. As stated in the staff disposition letter, the reasonableness review will be performed in the 2015 NDCTP or another proceeding as designated by the Commission.

SCE submitted on April 16, 2016 the final recorded cost information for 2015. Likewise, SCE will submit a separate advice letter in early 2017 providing final recorded costs for 2016.

**On January 25, 2016, Ms. Gilmore submitted a request for Commission review of Energy Division's disposition letter.**

In her request letter, Ms. Gilmore claims the staff disposition letter is unlawful and erroneous. She recommends rejecting SCE's AL 3307-E and requiring full reasonableness review of the ISFSI and Cold and Dark projects.

Ms. Gilmore asserts that the disposition unlawfully authorizes the withdrawal and expenditure of ratepayer funds without statutorily required reasonableness review. She asserts that authorizing trust withdrawals for construction projects without prior reasonableness review being a standard practice is erroneous. Additionally, she believes the disposition letter erred in failing to distinguish construction project costs from decommissioning costs.

SCE submitted a response to Ms. Gilmore's request for Commission review of staff's disposition letter on February 19, 2016. As an owner of SONGS, SDG&E also submitted its response on February 22, 2016.

## **NOTICE**

Notice of SCE AL 3307-E was made by publication in the Commission's Daily Calendar. SCE states that copies of its Advice Letter were mailed and distributed in accordance with General Order 96-B.

## **DISCUSSION**

**Commission decision D.16-04-019 issued in the Decommissioning Cost Estimate (DCE) Proceeding A.14-12-007 approved the advice letter process for nuclear trust fund disbursements.**

In proceeding A.14-02-007 which reviewed and approved the 2014 DCE for SONGS 2 and 3, SCE and SDG&E requested that the Commission authorize them to continue using the advice letter process created in D.14-12-082 from the 2012 Nuclear Decommissioning Cost Triennial Proceeding (NDCTP), for seeking disbursements from the Nuclear Decommissioning Trust (NDT) funds and reporting. No party opposed this request in proceeding A.14-12-007.

Ordering Paragraph 4 of D.16-04-019 orders SCE to file annually Forecast and Recorded Decommissioning Disbursement Tier 2 Advice Letters. Each such Advice Letter must show information supporting the requested disbursement tied to the Nuclear Decommissioning Cost Estimate.

**SCE AL 3307-E is in compliance with OP 4 of D.16-04-019.**

In AL 3307-E, SCE requests disbursement of the forecasted 2016 decommissioning expenses for SONGS 2 and 3. Ordering Paragraph (OP) 6 of D.16-04-019 has recently approved this approach. As stated in OP 6 of D.16.04-019, "All disbursements from the Nuclear Decommissioning Trust Funds are provisional and subject to an obligation to refund any improper costs to the Trust Funds."

**SCE's request for disbursement of \$228.8 million out of the SONGS 2 and 3 nuclear decommissioning trust funds is approved subject to a reasonableness review of actual expenditures incurred.**

SCE's request for disbursement of \$228.8 million out of the SONGS 2 and 3 nuclear decommissioning trust funds is approved subject to a reasonableness review of actual expenditures incurred. The reasonableness review will be performed in a formal proceeding as designated by the Commission.

**Costs for the ISFSI and the Cold and Dark projects are included in the DCE.**

SCE's forecasted expenses in 2016 for the ISFSI and the Cold and Dark projects are included in the DCE approved by the Commission on April 21, 2016 in D.16-04-019 for proceeding A.14-12-007. These are decommissioning projects included in the DCE related to the decontamination and decommissioning of SONGS 2 and 3, and not new construction projects. While this decision adopts the 2014 DCE total estimate of \$4.4 billion for SONGS 2 and 3, SCE and SDG&E must still file after the fact reasonableness review of expenditures for decommissioning SONGS 2 and 3 in the NDCTP proceedings unless otherwise scheduled. Further scheduling for reasonableness reviews of nuclear decommissioning costs for SONGS 2 and 3 will be determined in the NDCTPs.

**SCE AL 3307-E will not increase rates or affect service.**

SCE AL 3307-E requesting withdrawals from its SONGS 2 and 3 nuclear decommissioning trust funds will not result in an increase in rates or charges, conflict with any schedules, rules, or cause withdrawal of any service.

**Safety is of utmost concern to the CPUC. The primary goal of the SONGS 2 and 3 decommissioning plan is to ensure that the plant is decommissioned safely, spent fuel is managed properly, and the plant site is restored.**

The primary goal of the SONGS 2 and 3 decommissioning plan is to ensure that the plant is decommissioned safely, spent fuel is managed properly, and the plant site is restored. This resolution will enable SCE to undertake these necessary activities by providing the requested disbursements from the NDTs.

**The protest of this advice letter by Ms. Donna Gilmore is denied.**

## **COMMENTS**

Public Utilities Code section 311(g) (1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Accordingly, this draft resolution was mailed to parties for comments, and is placed on the Commission's agenda no earlier than 30 days from the date issued for comment.

On July 1, 2016, timely comments on draft resolution E-4779 were filed by SCE and Ms. Donna Gilmore.

SCE supports the resolution, which approves the requested disbursement of up to \$228.8 million from SCE's SONGS 2 and 3 Nuclear Decommissioning Trust funds.

In her comment letter of July 1, 2016, Ms. Gilmore reiterates her position that SCE's request for funding of the ISFSI and the Cold and Dark projects should be denied because these projects have not undergone prior reasonableness review by the Commission and the resolution contains errors. All of Ms. Gilmore's concerns have been addressed in Energy Division's prior disposition letter of January 14, 2016, and this resolution.

The Commission maintains that withdrawals from the decommissioning trust funds do not constitute a rate change. D.16-04-019 appropriately provides the process for the utilities' requests for trust fund withdrawals by way of advice letters.

## **FINDINGS AND CONCLUSIONS**

1. SCE submitted a Tier 2 Advice Letter on November 12, 2015 requesting disbursement of funds from its SONGS 2 and 3 decommissioning trust funds.
2. The trust fund withdrawal requests in this advice letters cover certain SONGS decommissioning related expenditures forecast to be incurred by SCE in 2016.
3. On December 2, 2015, Ms. Donna Gilmore submitted a protest to SCE AL 3307-E objecting to a portion of SCE's request relating to \$82.1 million for the ISFSI and \$13.9 million for the Cold and Dark projects.

4. On December 9, 2015, SCE submitted a reply explaining that Ms. Gilmore's protest relied on an incorrect understanding of SCE's request, and Commission precedent and process for authorizing NDT disbursements and subsequent formal reasonableness review of decommissioning expenses.
5. On January 14, 2016, Energy Division issued its disposition letter approving SCE 3307-E, which authorizes SCE to disburse up to \$228.8 million from its SONGS 2 and 3 NDTs, subject to a reasonableness review of actual expenses incurred.
6. On January 25, 2016, Ms. Donna Gilmore submitted a request for Commission review of Energy Division's disposition letter approving SCE AL 3307-E.
7. Reiterating the same arguments from her protest, Ms. Gilmore argues that Energy Division's disposition is unlawful and erroneous because it authorizes NDT disbursements prior to Commission reasonableness review.
8. The ISFSI and Cold and Dark projects, which are included in the DCE, are decommissioning projects and not construction projects as mischaracterized by Ms. Gilmore.
9. Disbursement from the NDT does not constitute a rate change.
10. The Commission does not need to perform reasonableness reviews of decommissioning projects prior to authorizing NDT disbursements.
11. D.16-04-019 for Proceeding A.14-12-007 approved the advice letter process for NDT fund disbursements.
12. OP 4 of D.16-04-019 orders SCE to file annually Forecast and Recorded Decommissioning Disbursement Tier 2 Advice Letters.
13. SCE is in compliance with OP 4 of D.16-04-019.
14. SCE's forecast expenditures in 2016 for SONGS 2 and 3 decommissioning as described in its advice letter is consistent with the Decommissioning Cost Estimate submitted in A. 14-12-007 and approved in D.16-04-019.



15. SCE's request for disbursement of up to \$228.2 million from its NDT funds for its share of SONGS 2 and 3 decommissioning expenditures to be incurred in 2016 should be approved, subject to future reasonableness review.
16. Expenditures for 2016 will be addressed for reasonableness in the 2015 NDCTP A.16-03-004 or some other proceeding as designated by the Commission.
17. SCE AL 3307-E will not increase rates or affect service.
18. SCE's ratepayers have already paid into the NDTs maintained separately by SCE for decommissioning SONGS 2 and 3.
19. The primary goal of the SONGS 2 and 3 decommissioning plan is to ensure that the plant is decommissioned safely, spent fuel is managed properly, and the plant site is restored. This resolution will enable SCE to undertake these necessary activities by providing the requested disbursements from its NDT funds.

**THEREFORE IT IS ORDERED THAT:**

1. SCE is authorized a disbursement of up to \$228.8 million from the SCE SONGS 2 and 3 Nuclear Decommissioning Trust funds for expenditures to be incurred in 2016, subject to reasonableness review to be conducted in a formal proceeding as designated by the Commission.
2. The protest by Ms. Donna Gilmore of SCE AL 3307-E is denied.

This resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on July 14, 2016; the following Commissioners voting favorably thereon:

/s/ TIMOTHY J. SULLIVAN  
TIMOTHY J. SULLIVAN  
Executive Director

MICHAEL PICKER  
President  
MICHEL PETER FLORIO  
CATHERINE J.K. SANDOVAL  
CARLA J. PETERMAN  
LIANE M. RANDOLPH  
Commissioners